



MARYLAND NOTARY WORKGROUP

2018 REPORT

Assistant Secretary of State, Kathleen M. Smith, Chair
Division Administrator, Michael P. Schlein, Co-Chair

Submitted to The Honorable John C. Wobensmith, Secretary of State

Contact: Michael P. Schlein

410-260-3863 | Michael.Schlein@maryland.gov

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Acknowledgements

This 2018 report of the Maryland Notary Workgroup is the result of hard work, valuable input, and dedication from numerous stakeholders. Legislators, state government representatives, industry, vendors, Information Technology experts, Notaries Public and consumers. The Workgroup members generously shared their time and talent and provided a thorough examination and study of the subject and provided insights and feedback. Their participation in the *Notary Workgroup* as well as their feedback, suggestions, and recommendations were welcomed and extraordinarily valuable for the Maryland Notary Public Workgroup report. The completion, timeliness, and comprehensiveness of this report would not have been possible without their active participation and support.

Roster of Members

The Notary *Workgroup* was composed of 30 members, including Legislators, state government representatives, industry, vendors, Information Technology experts, Notaries Public and consumers. The Chair was appointed by Secretary of State John C. Wobensmith.

Kathleen M. Smith, Assistant Secretary of State

Chair

Office of the Secretary of State

Michael Schlein, Co-Chair, Division Administrator

Charities & Legal Services Division

Office of the Secretary of State

The Honorable Michael Leahy, Secretary

Department of Information Technology (DoIT)

Lance Schine, Deputy Secretary

Department of Information Technology (DoIT)

Clerk Marilyn Bentley

Clerk of the Court

Baltimore City

Toby Musser

CEO

MNS Group

Penny Reed

SVP Strategic Engagement and Financial Reform

Wells Fargo

Denise Pope

VP Branch Administration

Tower Federal Credit Union

Shelly Gross-Wade

President & CEO

FSC First

Kenneth Krach

Administrative VP and Senior Counsel,

M &T Bank

Janelle Straszheim

Senior Vice President Trust Division
Sandy Spring Trust

Cody Corcelius

Chief of Staff for Chairman Sen. Bobby Zirkin

Richard W. Metzgar

House of Delegates

Lydia Williams

Program Manager, Guardianship, Legal Services and Elder Abuse Programs Department of Aging

M. Clare Schuller, JD

Progressive Title Corporation

Jean Quattlebaum

General Manager
Monument Sotheby's International Realty

John Nicholas (Nick) D'Ambrosia

Long and Foster
Chair: Maryland Real Estate Commission

Michael Kasnic,

Executive Director
Maryland Real Estate Commission

Alexandria Montanio, JD

Gordon Feinblatt

Richard Adams, JD

Rosenberg Martin Greenberg, LLP

Frieda M.A. McWilliams

Dir of Admin., MD Dept. of Labor, License and Regulation, Office of Financial Regulation

Rodney Ritter

General Manager, Fitzgerald Cadillac

Katherine Connelly

Consumer, Notary Public

William A. O'Connell

First American Title Insurance Company

Michael Higgs

Director

Maryland Department of Assessments and Taxation

Vendors:

Michael Adam Chodos

General Counsel, Senior VP

Notarize:

C. Richard Triola

Founder, CEO

NotaryCam

Bob Rice

CEO

World Wide Notary:

David Shean

First Class Signing Services:

Office of the Attorney General

Josaphine Yuzuik

Assistant Attorney General

Office of the Secretary of State

Marquita Lewis

Notary Officer and Notary Public

Executive Summary

Background and Overview

The Notary Work Group was established in response to growing movement nationally and in Maryland to legalize Remote Notarizations. Currently, Maryland law requires a Notary Public to be in the physical presence of the signer. Remote Notarizations would legalize the use of technology to perform a notarial act via audio-visual communication tools; the Notary would not be in the physical presence of the Signer. The Work Group was composed of a diverse group of stakeholders from a variety of industries and State Agencies. Invited members of the Work Group included:

- Maryland Circuit Court Clerks' Association
- Maryland Dept of Information Technology
- Maryland General Assembly
- Maryland Office of the Attorney General
- Other interested departments
- Maryland Land Title Association
- Maryland Circuit Court Clerks' Association
- Maryland Mortgage Bankers and Brokers Association
- Maryland Bankers Association
- Maryland Association of Realtors
- Maryland Real Estate Commission
- Maryland State Bar Association
- Maryland Automobile Dealers Association
- Consumer/Notary
- Guardianship Attorney
- Elder Law Attorney
- Disability Rights Attorney
- Estate and Trust Attorney
- Remote Notary Industry Vendors

Purpose and Goal

Purpose: The purpose of the Notary Work Group was to study, review and make recommendations about the entire body of law, including Remote Notarizations, physical presence, fees, enforcement, and more, as related to Notaries Public, in the State of Maryland.

Goal: The goal was to determine if the notary laws need to be revised, to align the notary law with related laws in the State of Maryland, and to propose recommendations regarding the body of notary laws and remote notarizations that currently exist in other states.

The Work Group was convened for seven (7) months; the Work Group broke into Subgroups which studied the following topics: liability, identity management and recordkeeping, enforcement, remote notarizations, education and testing.

Specific Findings

Liability:

- A notary should comply with existing privacy laws and data security measures, especially if records are kept electronically.
- Records that must be kept should be well-defined so as to limit the notary's liability.
- The notary's work address should be used as a public record instead of their home address

Identity Management:

- Better specify the records that a notary is required to keep, how they must be kept, and for how long a notary must keep their records, pertaining to each notary seal that they affix.
- Notary law should better explain how to satisfactorily identify a signer.

Enforcement:

- Adopt a list of reasons that are deemed "good cause" to remove a Notary from office.
- Develop guidelines for the review and approval of notary applications. This will allow there to be more uniform practices when approving applications.
- A Notary should be required to report whether they've been convicted of a crime.

Remote Notarization:

- Move forward with adopting remote notarizations and that it can likely be accomplished, after funding is received and infrastructure, staffing with PINS, etc. are successfully achieved, implementation should take roughly two years.
- A person should be required to apply for an additional license in order to be a remote notary if they already hold a standard notary license.

Education and Testing:

- Require any new notary to take a class and pass a test before being approved to be a Notary.
- The amount of education that would be required would vary depending on whether someone is a new applicant or renewing.
- Deliver the educational and test online for both original and renewal applicants to reduce the burden on the applicants.

Funding Required

Funding is needed to modernize the infrastructure: database and website as well as increasing the processing and investigative staff, each with an assigned PIN. Estimated cost is: \$750,000 which includes costs for infrastructure, three (3) additional PINS and staff realignment. However, a careful study of web development, compatibility with Clerks of the Courts, etc. need to be studied to determine those costs.

Conclusion and Recommendation

- The Work Group concluded that the infrastructure of the Notary division must be fully modernized and adequately staffed with PINS and funded before Remote Notarizations can be considered.
- The law and regulations must be updated to include stronger enforcement, education, etc.

- Legislative Services analysts have consistently reported that Notaries is understaffed.
- Adding work load and volume cannot be sustained until a commitment is made to fully fund the IT infrastructure and staffing. The State should move forward with adopting the recommendations of the subgroups.
- Remote notarizations cannot be implemented unless and until these requirements are funded. Once funding is received and the infrastructure is complete and fully functioning, the consensus was that the State should consider undertaking this endeavor.
- A group of Workgroup members expressed interest in assisting in the policy and legislative initiatives, if the process continues.

Introduction

Remote Notarization is being promoted by the vendors as well as the Mortgage and Title industries. The impact of Notarial Acts is far more reaching than these industries. Notarial Acts include other critical documents such as Guardianships, Wills, Medical Powers of Attorney, HealthCare Proxies, etc. When considering the impact of Remote Notarizations, it is critical to consider vulnerable populations who are easy prey for scam artists, including but not limited to the frail elderly and developmentally disabled adults.

The terminology for Remote Notarizations and Electronic Notarizations has often been commingled, thus, causing confusion. To avoid confusion, we thought it would help to distinguish the two:

Remote Notarization is a system used to perform electronic notarial acts by use of audio-video communication, the Notary is not in the physical presence of the Signer.

Electronic Notarization is performed in the physical presence of the Signer. Electronic Notarizations are legal in Maryland under the Maryland Uniform Electronic Transaction Act, Commercial Law Article, Section 21-110, Md. Annotated Code. Currently, Electronic Notaries register as traditional notaries with the Office of the Secretary of State (OSOS); no distinction is made between a Notary that performs an electronic notarization from one that uses traditional pen to paper.

The National Association of Secretaries of States (NASS) has been studying Remote Notarizations and has established standards, but it has not been without controversy and concern from Secretaries around the country. Some Secretaries believe that states that have Remote Notarization should vet issues and allow the courts to adjudicate unanswered questions before other states endorse Remote Notarization. Only with time can we adequately evaluate Remote Notarization's impact on the states where legislation recently passed, such as Texas and Nevada.

We note that the State of Ohio recently repealed its Remote Notarization law. This action confirms our belief that a cautious and thorough study and evaluation of this matter and a holistic review of Maryland's Notary law is essential.

Topics that were considered by the Workgroup included:

- Comprehensive review of the existing Notary Law and all other related Laws and Regulations to ensure protections for the Public as well as Notaries Public;
- Knowledge Based Verification: Verification of the Signer;
- Verification that the Signer is not under duress;
- Mitigating unforeseen problems and harm to the public;
- Protection of credible Notaries Public;
- Enforcement and identification of rogue Notaries;
- Jurisdictional issues:
 - Jurisdictional and State's rights issues between and among states who do not recognize remote notarizations;
 - Possible violations of laws in other states when a Notary is performing a remote notarization and is unfamiliar with the laws of the other state;
- Identifying technology required to implement and track Remote Notarizations;

- Infrastructure and Administrative Capacity:
 - Establishing the technology infrastructure;
 - Determine the suitability of technology providers.
 - Research, identify, and create criteria of vendors;
- Financing the infrastructure essential to implement and track Remote Notarizations;
- Drafting and enforcement of regulations.

Current Maryland law requires that notarizations must be performed in the physical presence of the Notary. We believe the entire body of law needs to be reviewed and addressed as the Remote Notarization aspect will impact the law from physical presence to fees to enforcement, and more.

We are keenly aware of the weight and impact of the Public Trust balanced with the interest of those who want to use emerging technologies now available in a global marketplace. We feel a responsibility to carefully and comprehensively study Remote Notarization, which is a new concept, which will undoubtedly have unknown, but anticipated liabilities placed upon OSOS that have not yet been fully vetted and adjudicated. This movement has been spearheaded by private-sector stakeholders who are not entrusted with the Public Trust of the citizens of Maryland, as we are.

Prior to the Workgroup, discussions have revolved around preventing fraud regarding the signer, but protections have not been addressed for the Notary. We are concerned about the vulnerability of the system in which scam artists could thrive causing harm to the Public and Notaries, who could find themselves the subject of lawsuits.

In short, for the reasons cited above, a Workgroup was convened and we invited representatives from a variety of stakeholders to perform a study.

Workgroup Observations

The Workgroup met monthly from May to November 2018 for a total of seven meetings over a seven month period to study this matter. Subgroups were created and met monthly between each regularly scheduled meeting and reported their findings, in-depth discussions followed each report.

The Workgroups carefully considered the findings and discussions prior to making proposed recommendations. Each meeting was open to the public to allow community members to provide expertise and offer suggestions, as needed. Assistant Secretary Smith, Chair of the Workgroup, invited an expert, “Dean of Notaries” to participate in the meetings to share their insights and experiences, while he attended one meeting, he declined more robust participation.

Subgroups and Findings

Subgroups

Liability Subgroup
Identity Management
Enforcement
Remote Notarizations
Education and Testing

Subgroup Findings

LIABILITY SUBGROUP

The Liability Subgroup was created to study record keeping, privacy, and the liability of the Notary Public. This Subgroup determined that it must review issues such as fraud, knowledge-based verification, the vetting of technology providers for remote notarizations, the lack of defined records to be kept, the lack of education, and security breaches of information kept electronically. The Subgroup also discussed what information about a Notary Public should be publicly available.

With regards to electronic recordkeeping, the Subgroup concluded that there is already a vast array of existing federal and state privacy and data security law; all of which already governs any data retained by a Notary Public. The Notary Public should comply with existing law regarding data breaches and should observe cybersecurity best practices or keep their data on a platform or provider who observes such practices.

The Subgroup discussed requiring a Notary Public to obtain Errors & Omissions Insurance. This would protect the Notary Public and those they deal with from errors committed while performing a notarization. The drawback to requiring Errors & Omissions Insurance is that it will increase the cost of being a Notary Public. This will require the State to allow for those increased costs to be passed on to the consumer by allowing the Notary Public to charge a higher fee for

notarizations. It will also require the Secretary of State to monitor whether a Notary has Errors & Omissions Insurance and that it is current.

Recordkeeping requirements were determined to need improvements. It is recommended that the data elements required for a Notary Public to maintain in their register must be well-defined. The term of retention should also be specified. If a Notary Public maintains electronic records there should be digital storage services to keep and store the records for a required length of time. The records should be stored for the determined length of time irrespective of the status of the Notary's commission.

The Subgroup also recommends removing the statutory requirement that requires the home address of a Notary Public to be public information. A Notary Public should be able to provide a business address for the public record. An applicant will still be required to submit their home address to the Secretary of State. However, the home address should only be made publicly available if the Notary Public does not provide a business address. This would require a change in the law to the General Provisions Article 4-332, the section of the law that governs what information about a Notary Public is available to the general public.

The Subgroup recommended that the Secretary of State should create an online directory of actively commissioned Notaries Public. This will allow the public to search for a Notary Public near them; making it easier to find a Notary Public.

IDENTITY MANAGEMENT

The Identity Management Subgroup was created to study identity management, fees, and necessary tools. The subgroup was originally tasked with education and testing but it became apparent early in the process that education and testing must be its own subgroup. Discussion centered on the manner in which a Notary Public should properly identify the signer and how to properly record and keep that transaction. Over the course of several subgroup meetings, it became apparent that the current law and regulations did not adequately address how to properly identify a signer. It was also unclear of exactly what records must be kept, how they must be kept, and for how long those records must be kept. Early discussion about a requirement to pass a class and test to become a Notary Public led the Subgroup to suggest that the fee a Notary Public can be charged should be raised to a larger amount to allow the Notary Public to recoup the increased expense and time required to become a Notary Public.

The Subgroup concluded that a Notary Public should be permitted to charge a larger fee for service to offset any additional costs and requirements to become a Notary Public, should they be enacted. The law should be changed to indicate wording such as a fees "should not exceed" a specific dollar amount should be established as the fee. A fee cap should be set.

The Subgroup also concluded that the current regulation's use of the phrase "Obtain satisfactory proof of identity of the individual signing the document" is too vague. The law does not discuss the matter. The law or regulation should be updated to better define how a Notary Public can satisfactorily identify a signer. Identification should be broken into three forms:

1. Personal Knowledge. The Notary knows the signer.
2. Government Issued Photo Identification. A list of acceptable identifications should be provided, even if by regulation or policy.
3. Credible Third Party Witness. A person that knows both the notary and the signer that can vouch for the identification of the signer to the notary.

The Subgroup also concluded that a Notary Public should be required to keep a journal, or record, as is currently required by law. However, the subgroup believes that the law should go further than it currently does. The law should require that a Notary Public:

1. Keep a required set of items in their register, including but not limited to the date of the notarization, the name of the person that appeared before the notary, how the person was identified, identifying information, their signature, and the fee charged.
2. The law should also require that a Notary Public keep their record for a set period of years, and
3. That the record be a bound record or another “tamper proof” method.

The Subgroup also examined the fee to become a Notary Public and found it to be one of, if not the lowest, in the country. If education and testing are required, the cost will need to be passed onto the applicant and therefore an increase in the cost to become a Notary Public will be necessary.

ENFORCEMENT

The Enforcement Subgroup was created to study enforcement, registration, and name changes. The discussion on enforcement matters quickly led to the conclusion that enforcement should start at the beginning of the application process. Better control of who becomes a Notary Public needs to be adopted. Over the course of many subgroup meetings, it became apparent that the State needs to make the application process as uniform as possible, even though many Senators still maintain the practice of reviewing and approving Notary Public applications. The law and regulations should also be updated to make it clear what is required of a Notary Public when notarizing a document and the consequences for failing to do the job correctly.

The Subgroup concluded that the law should clearly define a Notary Public seal as a “public seal” as defined in the Annotated Code of Maryland, Criminal Law Article, 8-607. This can be done without having to change the Criminal Law Article. It can be done by clearly defining a Notary Public seal as a public seal in the Annotated Code of Maryland, State Government Article, Title 18, the section of the law that currently addresses notary matters. This will make it clear that a Notary Public that wrongfully, falsely, or corruptly affixes their seal to a document is subject to the penalty for violating the Criminal Law Article. This allows for prosecutors to better understand that it is illegal to falsely or corruptly affix a Notary Public seal.

The Subgroup also concluded that reasons for denying a Notary Public application and revoking a Notary Public commission for “good cause” should be better defined. The Subgroup determined that a long list of items for which one may be denied or revoked is not a good idea because it limits the office from using its discretion. A long list would be too specific to give the Office of the Secretary of State discretion. If something warranted revoking a commission but wasn’t mentioned in a long list, it could cause an issue in revoking a commission. A list of reasons to

deny an application or revoke a commission for “good cause” should be created. However, it should list the main and most frequent reasons a Notary Public applicant would be denied or a commissioned Notary Public have their commission revoked. The list of reasons should be as follows:

1. Not providing truthful information on a notary application.
2. Not keeping the required journal of notarial acts.
3. Failing to witness the signing of a document before affixing the notary’s Official Stamp.
4. Failing to properly identify someone before affixing the notary’s Official Stamp.
5. Charging excessive fees.
6. Conviction of a felony or crime involving fraud, dishonesty, and deceit.
7. Any other violation of the notary law or related regulation promulgated by the Office of the Secretary of State.

It was also determined that any new law should contain a requirement that a notary convicted of a felony must report it the Secretary of State’s office within ten days of the conviction or within ten days after they are released from incarceration, whichever is sooner. This allows the office to review the self-reporting and make an administrative decision on whether the Notary Public should stay commissioned. Failure to report the crime would allow the Office of the Secretary of State to use its discretion to revoke the Notary Public commission for failing to report the crime.

When reviewing applications, the Subgroup believes that the OSOS should outsource its background checks to a third party vendor that can provide the information that the Secretary of State is looking for but do it consistently and for a low price. This will allow the Secretary of State to focus on other notary matters, rather than doing background checks.

In addition to outsourcing background checks, the OSOS can make the review of a Notary Public application more uniform across the different Senators offices that wish to continue to review Notary Public applications. Developing guidelines for Senators offices reviewing background checks would be helpful in creating more uniformity for notary applicants.

The Subgroup also believes that enforcement actions taken by the Office of the Secretary of State against Notaries Public should be prominently displayed on the office’s website. This would require a change to the Maryland Public Information Act law found in the Annotated Code of Maryland, General Provisions Article, 4-332. Currently, enforcement activities are not available to the public.

Though not mentioned in the Subgroup report, the Notary Work Group discussed altering the wording in the Notary Public Handbook that explains how to make a name change. The Handbook is written specifically for women who get married. It does not allow for scenarios involving name changes. This can be re-written to offer better guidance to a Notary Public that changes his or her name.

REMOTE NOTARIZATIONS

The Remote Notarization Subgroup was created to study the emerging industry of remote notarizations, including the cost of the technology and the financial transactions for which it is intended to assist. Legalizing remote notarizations would require a change to the law as it currently exists. At this time, notarizations require that the Notary Public witness the signature of the signer, in the physical presence of the signer. Remote notarizations fundamentally change notarizations by allowing the use of audio-video equipment to remotely witness the signature of a signer on a document; not in the physical presence of the signer. Technology exists that allows someone to identify someone by using audio-video equipment and other knowledge based questions that confirm identity. Remote notarization creates an industry, a business opportunity, for someone to notarize for anyone at any time. The extent of the business opportunity is not yet known. The impact of this technology is not fully known either. The only states to legalize remote notarization are Indiana, Michigan, Minnesota, Montana, Nevada, Tennessee, Texas, Vermont, and Virginia.

The Subgroup believes the best way to prevent rogue notaries from abusing remote notarization technology is to establish clear requirements relating to confirming a signer's identity, performance of the notarial act, and creation of a record of the notarial act. The records should establish audit trails of the notarial session, including a video recording of the session. It is believed that someone will be less likely to cheat a Notary Public while being recorded on camera. The law should also allow for the Secretary of State to revoke a Notary or Remote Notary commission.

There are a few risks involved with remote notarizations. The most obvious risk is the ability to positively identify the signer remotely. A Notary Public, if performing remote notarizations, is unable to hold the identification provided by the signer in their hand and examine it. An online interaction between a Notary Public and signer can cause the interaction to become divorced from context. In the traditional notarization, a Notary Public can interact with the signer in person, easily observe the signer's demeanor, and get an overall sense of the situation with human contact. This allows the Notary Public to screen for competency and duress which is not as easily detected on a webcam. The solution to these issues is to provide tools that allow a Notary Public to confidently verify a remote signer's identity by using a multi-factor authentication process to the standards of the Mortgage Bankers Association and the American Land Title Association which is also embodied in the 2018 Revised Uniform Law on Notarial Acts. Training would be necessary for a Notary Public to learn how to use the remote notarization technology to properly identify a signer and detect duress.

The Subgroup recommends the State to determine how to best protect credible Notaries Public from fraud and identity theft. While there are no easy solutions, a Remote Notary Public should be required to identify themselves during a transaction and be the only one who is authorized and able to access their digital seal and certificate for completion of notarial acts. A Remote Notary's tools must be secured to prevent use by someone other than themselves.

Anyone that wishes to become a Remote Notary Public must be required to attend a class and complete training. It is preferred that the class and training be offered online. Education should address both the traditional and the remote notarizations. The State can relieve itself of the

burden of developing a curriculum by specifying what must be taught but leaving it to a qualified vendor to develop the content.

Protective measures to ensure law and regulations can be enforced and jurisdictional issues were also addressed. It was determined that the State should establish clear parameters involving the use of remote notarization technology to ensure that the notarial acts conducted by a Remote Notary Public are considered lawful. Maryland's interstate recognition laws already ensure that we accept a notarization done in accordance with another state's laws. All states recognize and accept notarial acts done in other states. No state dictates what another state's notaries can and cannot do. The law must be clear that a Maryland Remote Notary Public must be present within the State of Maryland when performing a notarial act. The law must also make it clear that a remote notarization done by a Maryland Remote Notary Public is deemed to have been done in the State of Maryland and according to our laws. The physical location of the signer is deemed to not be relevant in a remote notarization transaction. If the signer appears by remote notarization technology before a Maryland Notary Public, they are deemed to have signed the document and completed the transaction in Maryland. The Subgroup also explained that the State must fund technological infrastructure needed to meet the current and future needs of the Notary Division, including remote notarizations. In addition to internal Secretary of State technological infrastructure, the State would need to determine how to regulate the technology used for remote notarizations. There are two options for regulating technology:

1. Adopt a technological standard and require that any platform or technology selected by a Remote Notary Public adhere to those standards. Texas and Virginia have taken this approach.
2. Review technological platforms and approve them for use on a case-by-case basis. Under this approach, the Secretary of State develops a list of approved vendors. Michigan has selected this approach.

The cost of the first option is less. The time taken in introducing the first option is also less. Regardless of the method chosen, the Secretary of State will need to be provided adequate resources to properly register and regulate Remote Notaries Public.

The Subgroup also explained the two methods for creating remote notarization law used in other states.

1. The Mortgage Bankers Association-American Land Title Association model for legislation is designed to be a stand-alone piece of legislation that can be passed into law without significantly altering the pre-existing law regarding Notaries Public in a state. Texas and Tennessee have used this approach.
2. Revised Uniform Law on Notarial Acts model, as revised in 2018, is designed to be a complete overhaul of a state's notary statutes.

After funding is approved and received and the infrastructure, database and website are modernized, it is estimated that the State would need 2 years to successfully institute remote notarizations in the State of Maryland.

EDUCATION AND TESTING

The Education and Testing Subgroup was created to study whether or not education and testing should be required to become, and stay commissioned as, a Notary Public. The Subgroup discussed how other licenses given by the State require some level of testing or education to ensure that the person knows what they are doing before getting the license. Currently, a Notary Public does not have to pass a test or attend a class to become a Notary Public. Continuing education is not required either. The lack of education and testing in the application and renewal process leads to commissions being issued to someone who does not understand what a Notary Public does. Unfortunately, people do not always educate themselves on the responsibilities of being a Notary Public unless they are forced to.

The Subgroup unanimously agreed that education and testing to become a Notary Public should be required. It was decided that the amount of education required for a renewing Notary Public should be less than when that person submitted a new application. It is important to have continuing education and testing to ensure that a Notary Public remembers their role and responsibilities. The education and testing should only be required when a person applies to be a Notary Public or renews their commission. It is not needed within the term of a Notary Public commission.

The Subgroup concluded that education should be delivered to applicants and renewing applicants by the Secretary of State, or by a designated vendor with an approved curriculum. The Secretary of State should deliver education and testing online. This allows for applicants to easily complete the class, on their own schedule without imposing a burden. The Notary Work Group discussed that it would also be acceptable to deliver education and testing in person where appropriate but that it could be more costly than online education.

It was also determined that there is a cost to requiring education and testing. Not only must the Secretary of State create or approve a curriculum for teaching notary applicants, it must administer the education and testing. The notary system of the Office of the Secretary of State will need to track when a class is taken as part of the application and renewal processes. The person taking the class should absorb the determined cost of education and testing.

Educating the public is also vital in better regulating the Notary Public sector. The Office of the Secretary of State should create a consumer guide and lay out information on the website in a manner that is easier for the public to view. A frequently asked questions list for both Notaries Public and the general public should be created to offer better guidance on how to act as a Notary Public.

Recommendations

1. The infrastructure of the Notary division must be fully modernized and adequately staffed with PINS and funded before Remote Notarizations can be considered.
2. Notary law and regulations must be updated to include stronger enforcement, education, etc.
3. Legislative Services analysts consistently reported that Notaries is understaffed. Staff with PINS must be added and ongoing education and training for staff must be provided.
4. Additional workload and volume cannot be sustained until a commitment is made to fully fund the IT infrastructure, website, and PINS for new and incumbent cross-trained staff. The State should move forward with adopting the recommendations of the subgroups.
5. Remote notarizations cannot be implemented unless and until these requirements are funded. Once funding is received and the infrastructure is complete and fully functioning, the consensus was that the State should consider undertaking this endeavor.
6. A Notary Public should be able to charge a higher fee for service should additional costs and requirements to become a Notary Public be enacted. A maximum fee for notary service should be set, the fee should not be unlimited.
7. Removing the statutory requirement requiring the home address of a Notary Public to be public information. A Notary Public should be able to provide a business address for the public record. Requires a change in the law to the General Provisions Article 4-332, the section that governs information about a Notary Public is available to the general public.
8. The Secretary of State should create an online directory of actively commissioned Notaries Public allowing the public to search geographically for a Notary Public.
9. The Notary Public should comply with existing law regarding data breaches and should observe cybersecurity best practices or keep their data on a platform or provider who observes such practices.
10. Require Notaries Public to obtain Errors & Omissions Insurance, this protects the Notary Public and those they deal with from errors committed while performing a notarization.
11. Improve recordkeeping requirements. Data elements required for a Notary Public to maintain in their register must be well-defined. The term of retention should also be specified.
12. Requirements regarding digital storage of electronic records should be determined regardless of the status of the Notary's commission.
13. Update the law or regulation to better define how a Notary Public can satisfactorily identify a signer. Identification should be broken into three forms:

- Personal Knowledge. The Notary knows the signer.
- Government Issued Photo Identification. A list of acceptable identifications should be provided, even if by regulation or policy.
- Credible Third Party Witness. A person that knows both the notary and the signer that can vouch for the identification of the signer to the notary.

14. The law should require that a Notary Public:

- Keep required information in their register, including but not limited to the date of the notarization, the name of the person that appeared before the notary, how the person was identified, identifying information, their signature, and the fee charged.
- A Notary Public keep their record for a set period of years, and
- That the record be a bound record or another “tamper proof” method.

15. Recommended adjusting the fee to become a Notary Public, it is one of, if not the lowest, in the country. If education and testing is required, the cost will need to be passed onto the applicant and an increase in the cost to become a Notary Public will be necessary.

16. A person should have to apply for an additional license in order to be a remote notary if they already hold a standard notary license.

17. The Workgroup recommended that the law should clearly define a Notary Public seal as a “public seal” as defined in the Annotated Code of Maryland, Criminal Law Article, 8-607.

18. The Workgroup recommended better defining the reasons for denying a Notary Public application and revoking a Notary Public commission for “good cause”.

19. The Workgroup recommended establishing requirements to prevent rogue notaries from abusing remote notarization technology.

20. The Workgroup recommended that the State determine how to best protect credible Notaries Public from fraud and identity theft.

21. It was recommended that new laws should contain a requirement that a notary convicted of a felony must report it the Secretary of State’s office within ten days of the conviction or within ten days after they are released from incarceration, whichever is sooner. This allows the Office to review convictions and determine whether the Notary Public should retain their commission. Failure to report a crime would allow the Office of the Secretary of State to use discretion to revoke the Notary Public commission for failing to report.

22. The Workgroup recommended that the Office of the Secretary of State outsource its background checks to a third party vendor that can provide the information that the Secretary of State allowing the Office of the Secretary of State to perform higher level notary activities.

23. The Workgroup recommended that the review of a Notary Public application is uniform across the different Senators offices that wish to continue to review Notary Public applications. The Workgroup recommended developing guidelines for Senators offices reviewing background checks to create consistency and uniformity for notary applicants.

24. The Workgroup recommended that enforcement actions taken by the Office of the Secretary of State against Notaries Public should be prominently displayed on the office's website. This would require a change to the Maryland Public Information Act law found in the Annotated Code of Maryland, General Provisions Article, 4-332. Currently, enforcement actions are not available to the public.
25. The Workgroup recommended altering the wording in the Notary Public Handbook that explains how to make a name change to provide improved guidance to a Notary Public who changes his or her name.
26. Education for Notaries Public is critical. The Workgroup unanimously agreed that education and testing to become a Notary Public should be required as should continuing education and testing.
27. The Workgroup recommended that education should be delivered to applicants and renewing applicants by the Secretary of State, or by a designated vendor with an approved curriculum. Education and testing should be provided online, thus allowing applicants to complete classes, on a flexible schedule without imposing a burden. The Notary Work Group discussed in person delivery of education and testing.
28. Educating the public is vital to better regulate the Notary Public sector. The Office of the Secretary of State should create a consumer guide and lay out information on the website that is easy for the public to view. A frequently asked questions list for both Notaries Public and the general public should be created to improve guidance regarding the responsibilities and expectations of Notaries Public.
29. A group of Workgroup members expressed interest in assisting in the policy and legislative initiatives, if the process continues.